

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHAEL B. KINGSLEY,

Plaintiff,

- vs -

Case No. 10 CV 115

LISA JOSVAI, PATRICIA FISH,
ROBERT CONROY, STAN HENDRICKSON,
FRITZ DEGNER and KARL BLANTON,

Defendants.

COPY

Deposition of:

MICHAEL B. KINGSLEY

Sparta, Wisconsin
July 14, 2011

Reporter: Christal A. Hansen, CSR-IA/IL, RPR

I N D E X

WITNESS:

Page(s)

MICHAEL B. KINGSLEY

Examination by Mr. Posnanski

4

E X H I B I T S

Exhibits

Identified

1 - Monroe County Jail Inmate Major
Violation Report

38

2 - Monroe County Jail Inmate Major
Violation Report

49

3 - Major Discipline Appeal

47

(Attached to original transcript; copies
provided to counsel)

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DEPOSITION OF MICHAEL B. KINGSLEY,

called as a witness, taken at the instance of
the Defendants, before Christal A. Hansen, a
Registered Professional Reporter and Notary
Public in and for the State of Wisconsin, at the
Monroe County Jail, 210 West Oak Street, City of
Sparta, County of Monroe, and State of
Wisconsin, on the 14th day of July 2011,
commencing at 9:35 a.m.

A P P E A R A N C E S

TIMOTHY H. POSNANSKI, ESQ.,
Whyte, Hirschboeck, Dudek, S.C.,
Suite 1900, 555 East Wells Street,
Milwaukee, Wisconsin 53202-3819,
(414) 273-2100, appeared on behalf of the
Defendants.

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<p style="text-align: right;">4</p> <p>1 MICHAEL B. KINGSLEY</p> <p>2 called as a witness, after having been first</p> <p>3 duly sworn, was examined and testified as</p> <p>4 follows:</p> <p>5 (Exhibit Numbers 1 - 2 marked for</p> <p>6 identification by the reporter)</p> <p>7 EXAMINATION</p> <p>8 BY MR. POSNANSKI:</p> <p>9 Q. Mr. Kingsley, my name is Tom Posnanski.</p> <p>10 I represent the defendants in this matter.</p> <p>11 Could you please state and spell your name for</p> <p>12 the record.</p> <p>13 A. Michael Brandon Kingsley,</p> <p>14 K-I-N-G-S-L-E-Y.</p> <p>15 Q. I'm going to go over just a few ground</p> <p>16 rules for the deposition this morning. One is,</p> <p>17 are you on any medication or anything else that</p> <p>18 would affect your ability to recall things from</p> <p>19 memory or testify truthfully here today?</p> <p>20 A. I am taking medication. I don't</p> <p>21 believe it has any effect on that.</p> <p>22 Q. On your memory or ability to recall</p> <p>23 events from your memory?</p> <p>24 A. Right.</p> <p>25 Q. I'm going to ask you a series of</p>	<p style="text-align: right;">6</p> <p>1 A. Dane County Jail.</p> <p>2 Q. Anywhere else?</p> <p>3 A. Wisconsin State Prison System.</p> <p>4 Q. Anywhere else besides that? Is that</p> <p>5 no?</p> <p>6 A. That's no. Sorry.</p> <p>7 Q. When were you in the Dane County Jail?</p> <p>8 A. The last time I was in the Dane County</p> <p>9 Jail was approximately maybe 10 years ago.</p> <p>10 Q. And what about in the Wisconsin State</p> <p>11 Prison System?</p> <p>12 A. Approximately -- I was released</p> <p>13 January 25th of 2011.</p> <p>14 Q. When did you go in?</p> <p>15 A. August of 2010.</p> <p>16 Q. During your various stints in jail have</p> <p>17 you been disciplined while in jail?</p> <p>18 A. As to?</p> <p>19 Q. As to rules infractions or what they</p> <p>20 allege was your disobedience.</p> <p>21 A. Yes.</p> <p>22 Q. Do you know how many times</p> <p>23 approximately?</p> <p>24 A. Objection motion due to it doesn't have</p> <p>25 anything to pertain to this matter at hand. So,</p>
<p style="text-align: right;">5</p> <p>1 questions. If for any reason you don't</p> <p>2 understand one of my questions, let me know.</p> <p>3 I'll do my best to rephrase it. If you answer</p> <p>4 my question, I'm going to assume you understood</p> <p>5 it and answered accordingly; is that fair?</p> <p>6 A. Fair.</p> <p>7 Q. And then, lastly, try not to talk over</p> <p>8 me. I'll try and wait until you complete your</p> <p>9 answer before I start a new question, and then</p> <p>10 if you could, give verbal responses to all of my</p> <p>11 questions just because the record won't reflect</p> <p>12 uh-huh, uh-uh or nods of the head. Is that</p> <p>13 okay?</p> <p>14 A. Yes.</p> <p>15 Q. I want to talk a little bit about your</p> <p>16 background and specifically your incarceration</p> <p>17 history. How many times have you been in jail,</p> <p>18 how many separate times have you been in jail?</p> <p>19 A. Objection. It doesn't have anything to</p> <p>20 do with the civil matter or the truthfulness of</p> <p>21 the matter, but numerous times I've been</p> <p>22 incarcerated.</p> <p>23 Q. Where?</p> <p>24 A. Monroe County Jail.</p> <p>25 Q. Anywhere else?</p>	<p style="text-align: right;">7</p> <p>1 if you're just going to keep on asking me</p> <p>2 questions about my background, I'm just going to</p> <p>3 keep on objecting and saying motion because it's</p> <p>4 going to be a motion I'm going to file with the</p> <p>5 Federal District Court down in Madison to</p> <p>6 exclude my past disciplinary hearings.</p> <p>7 Q. I understand that. With that objection</p> <p>8 interposed, can you approximate how many times</p> <p>9 you've been disciplined, how many times while</p> <p>10 you were in jail?</p> <p>11 A. I can't give you a number. Maybe five</p> <p>12 times.</p> <p>13 Q. Did the various facilities where you</p> <p>14 were incarcerated have processes for how they</p> <p>15 disciplined you?</p> <p>16 A. The only time I've been disciplined was</p> <p>17 here at the Monroe County Jail, and it seems to</p> <p>18 me that their disciplinary procedures are a</p> <p>19 frame-up and that they -- it's new to them and</p> <p>20 they don't know how to go about doing it. So,</p> <p>21 it's pretty much they constantly are in</p> <p>22 violation of peoples' constitutional rights when</p> <p>23 it comes to due process.</p> <p>24 Q. Is it your testimony that you've only</p> <p>25 been disciplined at the Monroe County Jail?</p>

4 (Pages 4 to 7)

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<p style="text-align: right;">8</p> <p>1 A. That's correct.</p> <p>2 Q. So, you were never written up or given</p> <p>3 a rules violation at the Dane County Jail or at</p> <p>4 the Wisconsin Prison System?</p> <p>5 A. Minor infractions. The deal in prison,</p> <p>6 minor conduct report, like, for instance, too</p> <p>7 much property or something, too many bars of</p> <p>8 soap. So, they either destroy one or whatever</p> <p>9 or write you a thing and where you might have to</p> <p>10 go do some extra duty.</p> <p>11 Q. So, nothing major?</p> <p>12 A. Right. That's correct.</p> <p>13 Q. When you were given minor rules</p> <p>14 infractions, were you given an opportunity for a</p> <p>15 hearing for minor infractions?</p> <p>16 A. In the Wisconsin State Prison System,</p> <p>17 yes.</p> <p>18 Q. And do they give you a form or a</p> <p>19 document when they give you a minor rules</p> <p>20 infraction?</p> <p>21 A. Yes. They gave me a form stating what</p> <p>22 they -- what you're allowed to do, what you --</p> <p>23 what the process is for due process, your</p> <p>24 rights, your -- for calling witnesses or having</p> <p>25 access to Incident Reports, that nature.</p>	<p style="text-align: right;">10</p> <p>1 waive your hearing or have a hearing. "Would</p> <p>2 you like to have a hearing?" "Yes, I would like</p> <p>3 to have a hearing." And they check mark it and</p> <p>4 then it goes to the other proceedings.</p> <p>5 Q. And they check a form to do that?</p> <p>6 A. Yes.</p> <p>7 Q. Is that the same form that includes a</p> <p>8 report of the minor rules infraction?</p> <p>9 A. I believe so. I believe the, the, the</p> <p>10 Incident Report is written within it, like the</p> <p>11 officer's statement, and then at the bottom it</p> <p>12 says, "Would you like to have a hearing or not?"</p> <p>13 Q. We're here to discuss incidents that</p> <p>14 are alleged in your complaint that took place in</p> <p>15 late May of 2010; is that right?</p> <p>16 A. That's correct.</p> <p>17 Q. And there are two separate claims that</p> <p>18 you advance in your complaint. One is due to</p> <p>19 use of excessive force and one is for violation</p> <p>20 of your due process rights; is that right?</p> <p>21 A. That's correct.</p> <p>22 Q. I want to talk about each of those</p> <p>23 separately. Is that all right?</p> <p>24 A. Yes.</p> <p>25 Q. The excessive force occurred on</p>
<p style="text-align: right;">9</p> <p>1 Q. And would that, even for a minor rules</p> <p>2 violation, would that include a right to a</p> <p>3 hearing?</p> <p>4 A. Yes, it would.</p> <p>5 Q. And how would you elect to exercise</p> <p>6 your right to a hearing?</p> <p>7 A. Well, it depends on the situation.</p> <p>8 Like, the bars, extra hygiene items or something</p> <p>9 like that, I knew I had extra bars of soap, so</p> <p>10 they wrote me up for it and I went there and</p> <p>11 said I had extra bars of soap, yes.</p> <p>12 Q. So, in that instance is it fair to say</p> <p>13 you wouldn't exercise your right for a hearing?</p> <p>14 A. I would exercise a right for the</p> <p>15 hearing, but I would go in there and admit that</p> <p>16 I was wrong by having an extra bar of soap.</p> <p>17 Q. How would you exercise that right?</p> <p>18 A. I would exercise it by participating in</p> <p>19 the hearing when they call me down and I would</p> <p>20 participate in the hearing.</p> <p>21 Q. I guess before participating in the</p> <p>22 hearing how did you let them know that you</p> <p>23 wanted a hearing?</p> <p>24 A. Because they, the officer calls you up</p> <p>25 to the station and they say that you can either</p>	<p style="text-align: right;">11</p> <p>1 May 21st, 2010; is that right?</p> <p>2 A. That's correct.</p> <p>3 Q. And it all seems to arise from a paper</p> <p>4 that was covering a light in your cell; is that</p> <p>5 right?</p> <p>6 A. That's correct.</p> <p>7 Q. How did the paper get there?</p> <p>8 A. I don't know. It was -- I was</p> <p>9 approximately in that cell for a month and the</p> <p>10 paper had been on that light the whole entire</p> <p>11 time.</p> <p>12 Q. So, you were placed in that cell at</p> <p>13 some time in April 2010?</p> <p>14 A. Yes.</p> <p>15 Q. And when you were placed in that cell,</p> <p>16 the paper was there the first day, the first</p> <p>17 minute you arrived?</p> <p>18 A. That's correct.</p> <p>19 Q. What kind of paper was it?</p> <p>20 A. Just regular writing paper.</p> <p>21 Q. Like from a legal pad?</p> <p>22 A. Yeah, or some sort or some type of</p> <p>23 paper, maybe newspaper or something. It's a</p> <p>24 common practice in the Monroe County Jail where</p> <p>25 inmates do put paper over their light to deflect</p>

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<p style="text-align: right;">12</p> <p>1 the brightness of the light.</p> <p>2 Q. Even though it's a common practice in</p> <p>3 the jail, are inmates then told to remove the</p> <p>4 paper frequently from covering the light?</p> <p>5 A. Not to my knowledge. I was in that</p> <p>6 cell for approximately a month and with -- they</p> <p>7 did tell me to remove it, but I said that I</p> <p>8 didn't put it there, so therefore I'm not taking</p> <p>9 it off, it's been there for over a month.</p> <p>10 Q. Who was the first person who told you</p> <p>11 to remove it?</p> <p>12 A. I believe Deputy Nicholas Manka.</p> <p>13 Q. And when did he tell you to remove the</p> <p>14 paper from the light?</p> <p>15 A. It was during lockdown when they're</p> <p>16 performing lockdown at the jail for the end of</p> <p>17 the night around 10:00, 10:30 or so p.m.</p> <p>18 Q. And do you recall what day that was?</p> <p>19 A. It would have been May 20th.</p> <p>20 Q. So, the night before this incident; is</p> <p>21 that right?</p> <p>22 A. That's correct.</p> <p>23 Q. Did you tell Nick Manka anything when</p> <p>24 he asked you to remove the paper?</p> <p>25 A. I told him that the paper has been</p>	<p style="text-align: right;">14</p> <p>1 A. It was Sergeant Hendrickson. He was</p> <p>2 doing medication pass, I believe. He told me,</p> <p>3 he came and asked me if I wanted my medication;</p> <p>4 I told him no. And he stated that the paper on</p> <p>5 the light needs to come off, and I then stated</p> <p>6 that, again, I did not put it there, so</p> <p>7 therefore I'm not taking it off and he soon</p> <p>8 thereafter left.</p> <p>9 Q. What time did that occur?</p> <p>10 A. It was early in the morning, maybe 5:30</p> <p>11 or so.</p> <p>12 Q. Did Deputy Blanton ever tell you to</p> <p>13 remove it?</p> <p>14 A. I don't recall.</p> <p>15 Q. Is it possible that he did?</p> <p>16 A. I don't know. Maybe.</p> <p>17 Q. When Sergeant Hendrickson told you to</p> <p>18 remove the paper, did you remove it?</p> <p>19 A. No, I did not. I went back to sleep.</p> <p>20 It was early in the morning.</p> <p>21 Q. After coming back for the medication</p> <p>22 check, did Sergeant Hendrickson ask you to</p> <p>23 remove it at any point thereafter?</p> <p>24 A. No. He asked me one time. That's</p> <p>25 during medication -- he offered me my medication</p>
<p style="text-align: right;">13</p> <p>1 there for a month and I'm not the one that put</p> <p>2 it there, I'm not taking it off.</p> <p>3 Q. What did he say?</p> <p>4 A. He said something, and I don't remember</p> <p>5 what he said, and then he walked away.</p> <p>6 Q. Did he at any point return and ask you</p> <p>7 to remove it?</p> <p>8 A. Yes, he did, yes, he did.</p> <p>9 Q. What time did he return?</p> <p>10 A. Sometime soon thereafter, maybe, maybe</p> <p>11 his next round or check.</p> <p>12 Q. And he asked you to remove the paper</p> <p>13 again?</p> <p>14 A. No. He stated that he was going to</p> <p>15 issue me a minor incident or discipline report</p> <p>16 and that I was going to be locked down in the</p> <p>17 cell for 23 hours for not taking it off.</p> <p>18 Q. Did you respond to him at all when he</p> <p>19 told you that?</p> <p>20 A. I don't recall.</p> <p>21 Q. Did anyone else tell you to remove the</p> <p>22 paper?</p> <p>23 A. The following, the following day, the</p> <p>24 21st, yes.</p> <p>25 Q. And who told you on the 21st?</p>	<p style="text-align: right;">15</p> <p>1 and he stated that that paper needs to come off</p> <p>2 the light, and again I stated, "I'm not the one</p> <p>3 that put it there. It's been there for over a</p> <p>4 month."</p> <p>5 Q. And therefore you weren't going to</p> <p>6 remove it?</p> <p>7 A. Right.</p> <p>8 Q. After sergeant Hendrickson told you to</p> <p>9 remove it, did anyone else tell you to remove</p> <p>10 it?</p> <p>11 A. Sometime soon thereafter</p> <p>12 Lieutenant Conroy entered the housing block and</p> <p>13 he asked me that, to -- the paper needed to come</p> <p>14 down off the light. And then again I had told</p> <p>15 him, "I'm not the one that put the paper on the</p> <p>16 light. The paper has been there for a month.</p> <p>17 Therefore, I'm not taking it off. Maybe you</p> <p>18 should take it off."</p> <p>19 Because the way the light is housed in</p> <p>20 the cell, I would have to get on the bed and try</p> <p>21 to jump or maneuver to try to grab the paper off</p> <p>22 the light simultaneously and that's, again, I</p> <p>23 feel that was going to cause maybe possibly a</p> <p>24 wrist injury or -- for whatever reasons. I</p> <p>25 believe that they have access to stuff, a ladder</p>

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<p style="text-align: right;">16</p> <p>1 or a broom or something of that nature to take</p> <p>2 it down their selves.</p> <p>3 Q. Are you aware of how other inmates get</p> <p>4 the paper into the light?</p> <p>5 A. I've never personally observed an</p> <p>6 inmate put paper on a light, but I'm guessing it</p> <p>7 would have to be, if you're short like me,</p> <p>8 you're going to have to jump off the bed and try</p> <p>9 to put it on there. Or if you're tall enough,</p> <p>10 you can be on the bed and maybe reach over.</p> <p>11 Q. But you've never seen anyone do it?</p> <p>12 A. No, I have not.</p> <p>13 Q. When Lieutenant Conroy told you to</p> <p>14 remove the paper from the light, did you do it?</p> <p>15 A. No, I did not.</p> <p>16 Q. Did Lieutenant Conroy tell you why he</p> <p>17 wanted it removed?</p> <p>18 A. No, he did not.</p> <p>19 Q. He didn't mention it was a fire hazard?</p> <p>20 A. No, he did not.</p> <p>21 Q. So, Lieutenant Conroy told you to</p> <p>22 remove the light, you told him again that you</p> <p>23 didn't put the paper there and therefore you</p> <p>24 weren't going to remove it?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">18</p> <p>1 about four or five jailers came to the cell, and</p> <p>2 one had a taser pointed, had my head to the</p> <p>3 bars, and they told me that I was going to</p> <p>4 receiving, which is segregation, and to get up</p> <p>5 and turn around and put my hands behind my back.</p> <p>6 And I told them that I didn't feel comfortable</p> <p>7 doing that because I had a taser pointed at me</p> <p>8 and I didn't really -- I asked what for and why</p> <p>9 was I going to the hole and Lieutenant Conroy</p> <p>10 stated "For disobeying orders," and just to put</p> <p>11 my hands behind my back, at which time I did</p> <p>12 place my hands behind my back while I was laying</p> <p>13 facedown prone on the, on the cell bed, and then</p> <p>14 they came in.</p> <p>15 Q. What time was this?</p> <p>16 A. I don't know. There's no clocks or</p> <p>17 anything in there.</p> <p>18 Q. Who were the officers that came to your</p> <p>19 cell?</p> <p>20 A. Lieutenant Conroy, Karl Blanton, I</p> <p>21 think is how you spell it or say his name,</p> <p>22 Stan Hendrickson, Deputy Fritz Digner or Degner.</p> <p>23 I believe there was somebody that was in the</p> <p>24 catwalk. I don't know. I just got provided</p> <p>25 with discovery information, so I'm still going</p>
<p style="text-align: right;">17</p> <p>1 Q. And then you told him "You remove it,"</p> <p>2 or how did that, what did you say to him?</p> <p>3 A. It was something along the lines, I</p> <p>4 told him if they wanted the paper off the light,</p> <p>5 that they should be the one to take it off</p> <p>6 because I wasn't the one that put it there.</p> <p>7 Q. And did Lieutenant Conroy tell you that</p> <p>8 if you didn't remove the paper from the light,</p> <p>9 you would face disciplinary action?</p> <p>10 A. I think that was after I had stated</p> <p>11 that I wasn't going to take it off, he said that</p> <p>12 "You're going to be facing disciplinary action."</p> <p>13 Q. And what did you tell him in response,</p> <p>14 if anything?</p> <p>15 A. I don't believe I said anything. I</p> <p>16 believe I said that he's making this -- he's</p> <p>17 turning it -- I think I said something like an</p> <p>18 analogy of, you're sweeping the floor trying to</p> <p>19 build a house, you're trying to make it a bigger</p> <p>20 issue than what it is, and he soon thereafter</p> <p>21 left.</p> <p>22 Q. What happened after that?</p> <p>23 A. After that I was, it was early in the</p> <p>24 morning, so I was, like, a sleep state and went</p> <p>25 back to sleep. And sometime later then they,</p>	<p style="text-align: right;">19</p> <p>1 over it. It's, like, 700 pages. I might have</p> <p>2 to do an amended complaint.</p> <p>3 Q. What did they tell you?</p> <p>4 A. They came, they came to the cell and</p> <p>5 they told me to get up and put my hands behind</p> <p>6 my back and I said, "What for? I didn't do</p> <p>7 anything wrong." And they said, "You're going</p> <p>8 to receiving for disobeying orders." And I, I</p> <p>9 might have said some other things like, "Well, I</p> <p>10 don't believe that I did anything wrong." And</p> <p>11 then Lieutenant Conroy told me, "Just put your</p> <p>12 hands behind your back."</p> <p>13 And I told him -- because at the time</p> <p>14 they had a taser, they had, like, a beam on the</p> <p>15 taser and it was pointed right at my head when I</p> <p>16 was laying down, and I felt for fear that if I</p> <p>17 would make any sudden move when they told me to</p> <p>18 get up and put my hands behind my back, that</p> <p>19 they would justify that and taser. So, I felt</p> <p>20 just lay there like I was, not make any sudden</p> <p>21 moves. So, Lieutenant Conroy told me to put my</p> <p>22 hands behind my back. I put my hands behind my</p> <p>23 back, then they came in.</p> <p>24 Q. Did they tell you what order or what</p> <p>25 orders you were disobeying or you had disobeyed?</p>

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<p style="text-align: right;">20</p> <p>1 Strike that. Did they tell you what orders you</p> <p>2 had disobeyed?</p> <p>3 A. No.</p> <p>4 Q. Did you understand that it related to</p> <p>5 the paper on the light?</p> <p>6 A. Yeah. I inferred that, okay, you guys</p> <p>7 are taking me to receiving because obviously you</p> <p>8 want me to take the paper off the light and I</p> <p>9 didn't.</p> <p>10 Q. Did they ask you to stand against the</p> <p>11 wall to be handcuffed?</p> <p>12 A. I don't -- I believe they told me to</p> <p>13 get up and face backwards with my hands behind</p> <p>14 my back, that's what I believe they told me, get</p> <p>15 up off the bed, turn around, face the wall. I</p> <p>16 believe that was their, their directive.</p> <p>17 Q. And as you said, you lied facedown in</p> <p>18 your bunk and put your hands behind your back?</p> <p>19 A. That was the first -- they came to the</p> <p>20 cell. I seen that there was four or five of</p> <p>21 them. One had the taser pointed at my head</p> <p>22 through the bars. The cell doors were locked,</p> <p>23 but it's the bars, like old Alcatraz style. He</p> <p>24 had the beam pointed at my head and I was in</p> <p>25 fear if I would make any sudden movement, that I</p>	<p style="text-align: right;">22</p> <p>1 something or told somebody to go do it or open</p> <p>2 the door, but as soon as they came to my hands,</p> <p>3 my hands were behind my back before they opened</p> <p>4 the cell, or else I don't believe they would</p> <p>5 have opened the cell.</p> <p>6 Q. What happened next?</p> <p>7 A. What happened next was that they, I</p> <p>8 believe Deputy Blanton, Deputy Degner and</p> <p>9 Deputy Hendrickson then entered the cell.</p> <p>10 Hendrickson pounced on me, put his knee into my</p> <p>11 back as to, like, I don't know, like, pin me</p> <p>12 down. I believe Deputy Degner, the one that was</p> <p>13 holding the taser, had the taser pointed at me</p> <p>14 throughout the whole time. And Deputy Blanton</p> <p>15 was holding my feet down.</p> <p>16 And due to, you know, I don't, I don't</p> <p>17 know how much Sergeant Hendrickson weighs, but</p> <p>18 I'm guessing it's over 200 pounds. And I'm not</p> <p>19 a skinny guy, so reaching up my hands behind my</p> <p>20 back, I had them behind my back, so when they</p> <p>21 put the handcuffs on, I was probably tensed up</p> <p>22 because due to the weight on top of me and due</p> <p>23 to the fact that my, me putting my hands behind</p> <p>24 my back, as I have, I don't know, fatter or</p> <p>25 huskier or whatever, it's kind of hard to put my</p>
<p style="text-align: right;">21</p> <p>1 would have been tased, so therefore I didn't</p> <p>2 want to make any sudden movements.</p> <p>3 So, I did get up and turn my face</p> <p>4 towards the wall, put my hands behind my back</p> <p>5 and when they -- I was like, "What for? I</p> <p>6 didn't do anything wrong." Lieutenant Conroy</p> <p>7 said, "You're going to receiving. Put your</p> <p>8 hands behind your back." So, at that time when</p> <p>9 I was laying facedown on the bed, I put my hands</p> <p>10 behind my back.</p> <p>11 Q. What happened next?</p> <p>12 A. The jailers entered the cell. They had</p> <p>13 somebody open the door from the outside and they</p> <p>14 entered the cell.</p> <p>15 Q. Did they cuff you?</p> <p>16 A. Yes, they did.</p> <p>17 Q. Where were you when you were cuffed?</p> <p>18 A. I was laying prone facedown on the cell</p> <p>19 bed.</p> <p>20 Q. Did you allow yourself to be cuffed?</p> <p>21 A. Yes, I did. I had my, I had my hands</p> <p>22 behind my back before they signaled for the door</p> <p>23 to be opened, because for them to open the door,</p> <p>24 someone else has to do it because it's in the</p> <p>25 front of the block. So, they must have made</p>	<p style="text-align: right;">23</p> <p>1 hands close enough to get them like this because</p> <p>2 these are the handcuffs that they put on like</p> <p>3 this. And that's when they were trying to say</p> <p>4 that you're resisting and quit resisting and I</p> <p>5 told them that I wasn't resisting.</p> <p>6 Q. So, that all occurred on your bunk?</p> <p>7 A. That's correct.</p> <p>8 Q. And the officers came in,</p> <p>9 Sergeant Hendrickson put his knee on your upper</p> <p>10 back?</p> <p>11 A. Upper back, mid back, just --</p> <p>12 Q. And Deputy Blanton grabbed your legs?</p> <p>13 A. Yeah, they were holding my legs down.</p> <p>14 Q. He held them down?</p> <p>15 A. Or something like that.</p> <p>16 Q. You were facedown, so you couldn't see</p> <p>17 what he was doing?</p> <p>18 A. Yeah, but I felt pressure on my legs,</p> <p>19 yes.</p> <p>20 Q. Do you know who placed the cuffs on</p> <p>21 you?</p> <p>22 A. I believe it was Hendrickson,</p> <p>23 Sergeant Hendrickson.</p> <p>24 Q. So, he had his knee on your back while</p> <p>25 trying to handcuff you?</p>

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<p style="text-align: right;">24</p> <p>1 A. I believe so, yes.</p> <p>2 Q. And because he had his knee on you, it</p> <p>3 made it difficult for you to keep your hands</p> <p>4 together behind your back?</p> <p>5 A. It was a tensing, like, you know, jerk</p> <p>6 and -- like that, but not only that, it's just</p> <p>7 for the fact that, I don't know, like, my build</p> <p>8 wouldn't able me to have my hands so close that</p> <p>9 the handcuffs could fit, so they made it seem</p> <p>10 like I was resisting and I was not resisting at</p> <p>11 all. Before they even opened the cell I had my</p> <p>12 hands behind my back. I didn't want to get</p> <p>13 tased, that's the whole thing, because they had</p> <p>14 the taser pointed at me. I didn't want to get</p> <p>15 tased because they had the taser pointed at me.</p> <p>16 Q. Did Sergeant Hendrickson then place the</p> <p>17 handcuffs on you?</p> <p>18 A. That's correct.</p> <p>19 Q. What happened after the handcuffs were</p> <p>20 placed on you?</p> <p>21 A. They, the defendants, told me to get up</p> <p>22 off the bed and I had told them that I couldn't</p> <p>23 get up because, I don't know, if you're facedown</p> <p>24 handcuffed, it was pretty hard for me to try to</p> <p>25 get up, so -- and I don't know. They seemed</p>	<p style="text-align: right;">26</p> <p>1 than my left foot did.</p> <p>2 Q. And what part of your foot hit?</p> <p>3 A. My toes and the side of my big toe.</p> <p>4 Q. And so you fell to your knees in the</p> <p>5 cell?</p> <p>6 A. That's correct.</p> <p>7 Q. Did you say anything?</p> <p>8 A. I complained of my feet, my feet hurt,</p> <p>9 my foot.</p> <p>10 Q. What did they say in response?</p> <p>11 A. I believe they said something, "You</p> <p>12 need to get up and walk, you need to get up and</p> <p>13 walk." I said, "I can't. My foot hurts." They</p> <p>14 said, "If you don't walk, we'll drag you."</p> <p>15 Q. And what happened next?</p> <p>16 A. They drug me through the cell block and</p> <p>17 into the jail main hallway and left me laying</p> <p>18 there for a few moments, I guess, until they</p> <p>19 could get a better grip around me or something</p> <p>20 and carry me to receiving or segregation or the</p> <p>21 hole.</p> <p>22 Q. Did they carry you from your cell into</p> <p>23 the main hallway?</p> <p>24 A. No. They, they, they drug me from</p> <p>25 south block out into the main hallway, then set</p>
<p style="text-align: right;">25</p> <p>1 like they were kind of irritated or agitated</p> <p>2 that they felt that I was resisting when I</p> <p>3 wasn't and they seemed to be frustrated with it.</p> <p>4 So, in a pulling and dragging</p> <p>5 motion they pulled and drug me off the bed and,</p> <p>6 when doing so -- the bed, cell beds have a</p> <p>7 frame, and my feet slapped against the frame</p> <p>8 causing me to go to my knees complaining about</p> <p>9 my foot being hurt.</p> <p>10 Q. Who dragged you off the bed?</p> <p>11 A. I believe it was an effort between</p> <p>12 Sergeant Hendrickson and Deputy Blanton, and</p> <p>13 Deputy Degner was holding the taser.</p> <p>14 Q. So, at that time Degner still had the</p> <p>15 taser. Was that pointed at you or was he just</p> <p>16 holding it?</p> <p>17 A. He had it pointed in his hand at me.</p> <p>18 Q. How high is the bed off the floor?</p> <p>19 A. I would say maybe, maybe two feet, two</p> <p>20 and a half feet.</p> <p>21 Q. So, they drag you off and your feet</p> <p>22 slap the frame. What part of your feet hit the</p> <p>23 frame?</p> <p>24 A. Both actually, but it seemed to, my</p> <p>25 right foot seemed to hit harder on the frame</p>	<p style="text-align: right;">27</p> <p>1 me down so they could get a better grip or</p> <p>2 something and carry me to segregation.</p> <p>3 Q. So, they dragged you out of your cell</p> <p>4 into the hallway, set you down and then carried</p> <p>5 you into segregation?</p> <p>6 A. That's correct.</p> <p>7 Q. Who did you tell that your foot hurt?</p> <p>8 A. I was quite belligerent, so I'm sure</p> <p>9 all defendants heard that.</p> <p>10 Q. And because your foot hurt, you</p> <p>11 couldn't walk?</p> <p>12 A. Correct. It was numb and stinging.</p> <p>13 Q. So, they drag you into the main</p> <p>14 hallway, set you down on your stomach?</p> <p>15 A. That's correct.</p> <p>16 Q. What happens next?</p> <p>17 A. They put me down on my stomach and they</p> <p>18 seemed to try to get a better grip, like, as one</p> <p>19 deputy was on my left arm and one was on my</p> <p>20 right and then others were, grabbed my feet and</p> <p>21 carried me to segregation.</p> <p>22 Q. So, four people carried you to</p> <p>23 segregation?</p> <p>24 A. I believe so.</p> <p>25 Q. How many people removed you from the</p>

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<p>28</p> <p>1 cell?</p> <p>2 A. I believe -- that pulled me off the</p> <p>3 segregation bed?</p> <p>4 Q. Not the segregation bed. How many</p> <p>5 people -- you said you were dragged out of your</p> <p>6 cell. Who dragged you? How many people dragged</p> <p>7 you?</p> <p>8 A. It was Defendant Hendrickson and</p> <p>9 Defendant Blanton.</p> <p>10 Q. Do you know who the four people were</p> <p>11 that carried you into the cell?</p> <p>12 A. I believe it was Defendant Hendrickson,</p> <p>13 Defendant Blanton, Defendant Conroy and</p> <p>14 Defendant Degner.</p> <p>15 Q. So, these four individuals carry you</p> <p>16 into the segregation cell. What happens next?</p> <p>17 A. They placed me facedown on the concrete</p> <p>18 bed. They got in there and again they went to,</p> <p>19 Defendant Hendrickson went to put his knee in my</p> <p>20 back and Defendant, I believe, Blanton was</p> <p>21 holding my feet and Defendant Degner was holding</p> <p>22 the taser. And it seemed like they were trying</p> <p>23 to take the handcuffs off and the handcuffs were</p> <p>24 so tight at that time that it seemed like they</p> <p>25 were having difficulty in trying to get the key</p>	<p>30</p> <p>1 Defendant Conroy state, "Get out of there. Just</p> <p>2 leave him in there." And they all left me</p> <p>3 laying there with the handcuffs on.</p> <p>4 Q. Did Lieutenant Conroy tell you that if</p> <p>5 they didn't get the handcuffs off, they would</p> <p>6 have to leave the cell and leave them on?</p> <p>7 A. I didn't hear him say -- I just heard</p> <p>8 him say, "Leave him in there with them on there"</p> <p>9 or "Get out of there."</p> <p>10 Q. Did you tell Lieutenant Conroy at any</p> <p>11 point or the other officers in the cell, fine,</p> <p>12 leave?</p> <p>13 A. I don't -- I said, I know I said, "Get</p> <p>14 the 'F' off me." I don't recall if I, if I</p> <p>15 said, fine, leave. It's about the same thing,</p> <p>16 fine, leave, get the "F" off me.</p> <p>17 Q. Well, I'm wondering if there were two</p> <p>18 separate statements.</p> <p>19 A. I don't know. I know there was one for</p> <p>20 sure. I said, "Get the 'F' off me."</p> <p>21 Q. How long did they leave you in the cell</p> <p>22 with the handcuffs on?</p> <p>23 A. I don't know. For a long time. If I</p> <p>24 would have to guess, it would be 30 to 45</p> <p>25 minutes.</p>
<p>29</p> <p>1 in there or something.</p> <p>2 And due to Sergeant Hendrickson's</p> <p>3 force on me, it made my body tense up and I</p> <p>4 lifted my head up because he was, like, applying</p> <p>5 all this weight on my back, and I lifted my head</p> <p>6 up and he slammed it down onto the concrete cell</p> <p>7 bed. And then at that moment I just heard,</p> <p>8 "Tase his ass." And then without no warning,</p> <p>9 Deputy Degner shot me with the taser.</p> <p>10 Q. Who said "tase his ass"?</p> <p>11 A. Defendant Hendrickson.</p> <p>12 Q. At some point in time did you yell at</p> <p>13 Sergeant Hendrickson to get the fuck off you?</p> <p>14 A. Yes, that's correct.</p> <p>15 Q. When did that occur?</p> <p>16 A. After it seemed like just the pressure</p> <p>17 of him putting all his weight onto me. It was</p> <p>18 difficult -- I was, like, you know, I felt like</p> <p>19 I was suffocating. And then after he -- I</p> <p>20 lifted my head, he slammed it down, is when I</p> <p>21 said, "Get the 'F' off me." And then that's</p> <p>22 when he said "tase his ass" and then I was</p> <p>23 tased.</p> <p>24 Q. What happened next?</p> <p>25 A. I believe after I was tased, I heard</p>	<p>31</p> <p>1 Q. And then at some point they re-entered</p> <p>2 the cell and removed the cuffs?</p> <p>3 A. I believe so, yes.</p> <p>4 Q. Who did that?</p> <p>5 A. I don't know.</p> <p>6 Q. Do you know when that occurred?</p> <p>7 A. Again, I would have to say, I don't</p> <p>8 know, 30 to 45 minutes. I don't know.</p> <p>9 Q. Is it fair to say because there's no</p> <p>10 clock, you don't really have any idea in terms</p> <p>11 of how long --</p> <p>12 A. I mean forever. It seemed like it was</p> <p>13 forever. When you've got handcuffs behind your</p> <p>14 back and it's cutting off circulation and it's</p> <p>15 quite painful, it seems like forever when you're</p> <p>16 left in that position.</p> <p>17 Q. But you don't have any idea how long it</p> <p>18 really was?</p> <p>19 A. No, I don't.</p> <p>20 Q. Were you conscious when they came in</p> <p>21 and removed the handcuffs?</p> <p>22 A. I don't remember.</p> <p>23 Q. So, you might have dozed off?</p> <p>24 A. Yeah, I don't know.</p> <p>25 Q. After the handcuffs were removed, the</p>

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<p style="text-align: right;">32</p> <p>1 nurse came to see you, correct?</p> <p>2 A. I believe so.</p> <p>3 Q. And you refused to see her; is that</p> <p>4 right?</p> <p>5 A. Yeah. I was irritated with jail staff.</p> <p>6 I didn't want to talk to anybody.</p> <p>7 Q. You didn't ask for any medical</p> <p>8 attention for your wrists, right?</p> <p>9 A. I didn't -- not at that time, no, I</p> <p>10 didn't. I was irritated with jail staff. I</p> <p>11 didn't even want to talk to anybody.</p> <p>12 Q. And you didn't ask for any medical</p> <p>13 attention for your foot for the same reasons,</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. And you didn't ask for any medical</p> <p>17 attention for the area of the body where you</p> <p>18 were tased; is that right?</p> <p>19 A. Again, I refused to talk to anybody.</p> <p>20 Q. Where were you tased?</p> <p>21 A. In my back.</p> <p>22 Q. Upper right back?</p> <p>23 A. I believe so.</p> <p>24 Q. And after the incident you didn't</p> <p>25 request any medical attention for injuries</p>	<p style="text-align: right;">34</p> <p>1 dragging you from the bed, right?</p> <p>2 A. That's correct.</p> <p>3 Q. Anything else that happened in the cell</p> <p>4 you think was excessive force?</p> <p>5 A. Dragging me, dragging me.</p> <p>6 Q. And at that point they dragged you</p> <p>7 because you couldn't walk, is that right,</p> <p>8 because you hit your feet?</p> <p>9 A. Right. I told them that I couldn't</p> <p>10 walk.</p> <p>11 Q. So, in order to move you, they either</p> <p>12 had to drag or carry you; is that right?</p> <p>13 A. Either -- I believe that they have</p> <p>14 other means. They have wheelchairs. I don't</p> <p>15 know. You know, they have, you know, restraint</p> <p>16 chairs or something. I don't know. You know, I</p> <p>17 don't know what they all have. I'm sure there's</p> <p>18 other means they could have went about it.</p> <p>19 Q. And there was no excessive force in the</p> <p>20 hallway while they were dragging or carrying</p> <p>21 you, right?</p> <p>22 A. The only thing, the handcuffs being</p> <p>23 tight, that's about it.</p> <p>24 Q. But then really this incident boils</p> <p>25 down to the use of the taser in the segregation</p>
<p style="text-align: right;">33</p> <p>1 caused by what you feel was the excessive force,</p> <p>2 correct?</p> <p>3 A. I don't remember.</p> <p>4 Q. So, as we go through the incident,</p> <p>5 officers come into your cell, they remove you</p> <p>6 from your cell bed, drag you out of the cell,</p> <p>7 set you down in the hallway and then carry you</p> <p>8 into the segregation cell; is that right?</p> <p>9 A. That's correct.</p> <p>10 Q. So, there was, as we go through trying</p> <p>11 to kind of isolate what happened, it didn't</p> <p>12 appear there was any excessive force in your</p> <p>13 cell; is that right?</p> <p>14 A. Well, due to, I mean, them pulling me</p> <p>15 and dragging me off the bed, I believe it was</p> <p>16 quite excessive the way they went about doing</p> <p>17 that.</p> <p>18 Q. So, you think that dragging you off the</p> <p>19 bed was use of excessive force?</p> <p>20 A. Yes.</p> <p>21 Q. Anything else that happened in the</p> <p>22 cell?</p> <p>23 A. And, I mean, my feet slammed hard</p> <p>24 against the bed frame.</p> <p>25 Q. And that happened when they were</p>	<p style="text-align: right;">35</p> <p>1 cell, right?</p> <p>2 A. While handcuffed, yes.</p> <p>3 Q. Were you fighting or struggling with</p> <p>4 the officers when they tried to take the</p> <p>5 handcuffs off?</p> <p>6 A. No, I was not.</p> <p>7 Q. But they had difficulty getting the</p> <p>8 handcuffs off you, right?</p> <p>9 A. I don't know for sure, but it appeared</p> <p>10 that way. Or I don't know what they were doing.</p> <p>11 They ended up making the handcuffs tighter,</p> <p>12 that's what I inferred from it, because they</p> <p>13 were trying to -- whatever. They kept on</p> <p>14 clicking down and made the handcuffs tighter.</p> <p>15 Q. So, they were struggling to get the</p> <p>16 handcuffs off you and it ended up making the</p> <p>17 handcuffs tighter?</p> <p>18 A. I believe so.</p> <p>19 Q. Did they say anything to you?</p> <p>20 A. I don't recall them saying anything to</p> <p>21 me. I think they said that "Quit resisting" or</p> <p>22 something, and I wasn't resisting at all. I</p> <p>23 mean, I'm sure the videotape and the video will</p> <p>24 clearly show that I was not resisting at all. I</p> <p>25 was handcuffed behind my back with jail staff on</p>

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<p style="text-align: right;">36</p> <p>1 top of me, so there's not any room for</p> <p>2 resistance.</p> <p>3 The handcuffs being tight and the</p> <p>4 tension of Defendant Hendrickson and them</p> <p>5 applying their weight on me caused me -- they</p> <p>6 were trying to justify that, is my belief, as me</p> <p>7 resisting when it was just tensing up due to the</p> <p>8 fact that Sergeant Hendrickson had his weight on</p> <p>9 me.</p> <p>10 Q. What were your injuries from this</p> <p>11 incident?</p> <p>12 A. I was -- currently, now?</p> <p>13 Q. Well, let's do both. What were your</p> <p>14 injuries from the incident immediately after the</p> <p>15 incident?</p> <p>16 A. My head was slammed on the concrete</p> <p>17 bed. My hands were purple, bluish cut off from</p> <p>18 circulation due to the handcuffs being</p> <p>19 excessively tight. And there was, afterwards,</p> <p>20 some pain in my right foot.</p> <p>21 Q. What about now?</p> <p>22 A. Now it's -- I've been diagnosed with</p> <p>23 carpal tunnel syndrome within my right hand due</p> <p>24 to handcuffs.</p> <p>25 Q. And you believe that stems from this</p>	<p style="text-align: right;">38</p> <p>1 Q. I want to move on to your due process</p> <p>2 claim. The due process claim really arises out</p> <p>3 of incidents that occurred on May 22, 2010; is</p> <p>4 that right?</p> <p>5 A. The 22nd, that's correct.</p> <p>6 Q. So, that's the day after the incident</p> <p>7 where you were removed from your cell and placed</p> <p>8 in segregation?</p> <p>9 A. That's correct.</p> <p>10 Q. On May 22nd Sergeant Fish came and gave</p> <p>11 you a Major Violation Report; is that right?</p> <p>12 A. That's correct.</p> <p>13 Q. I want to show you what's been marked</p> <p>14 for purposes of identification as Exhibit 1.</p> <p>15 A. That is true and accurate.</p> <p>16 Q. So, this is the Major Violation Report</p> <p>17 that Sergeant Fish gave you; is that right?</p> <p>18 A. That's correct.</p> <p>19 Q. And it identifies four violations; is</p> <p>20 that right?</p> <p>21 A. That's correct.</p> <p>22 Q. Failure to follow orders, resisting,</p> <p>23 disorderly conduct and causing jail disruption?</p> <p>24 A. That's correct.</p> <p>25 Q. What did Sergeant Fish tell you when</p>
<p style="text-align: right;">37</p> <p>1 incident?</p> <p>2 A. That's correct.</p> <p>3 Q. Anything else?</p> <p>4 A. No.</p> <p>5 Q. What damages do you feel you suffered</p> <p>6 from this incident?</p> <p>7 A. I feel that my hands are, my right hand</p> <p>8 is numb all the time and at times it's hard for</p> <p>9 me to write or hard to feel, you know, hot, cold</p> <p>10 sensations. And I've been told that I got to</p> <p>11 have surgery on it to clear the, whatever, I</p> <p>12 don't know the medical technical terms, but they</p> <p>13 told me that, the orthopaedic specialist told me</p> <p>14 that it's about 98 percent effective that your</p> <p>15 hand goes back to not being numb and --</p> <p>16 Q. Who diagnosed you with carpal tunnel</p> <p>17 syndrome?</p> <p>18 A. It was the Tomah Lake Clinic,</p> <p>19 Dr. Butler, Dr. Deming.</p> <p>20 Q. When did that occur?</p> <p>21 A. Early of 2011.</p> <p>22 Q. And which doctor recommended surgery?</p> <p>23 A. I believe it was Dr. Butler was the one</p> <p>24 who told me he would actually be performing it</p> <p>25 and that he's performed hundreds of them.</p>	<p style="text-align: right;">39</p> <p>1 she -- strike that. Did she actually give you</p> <p>2 this form? Did she show it to you?</p> <p>3 A. Yes, she did.</p> <p>4 Q. And what did she tell you?</p> <p>5 A. She told me that she was going to be</p> <p>6 conducting the disciplinary hearing. And I</p> <p>7 asked that -- I inquired about the disciplinary</p> <p>8 hearing because this is something new to me at</p> <p>9 the Monroe County Jail, and I had asked her to</p> <p>10 explain this piece of paper in process to me.</p> <p>11 Q. And what did she say?</p> <p>12 A. She said that I could either have a</p> <p>13 hearing or I could waive a hearing, and then she</p> <p>14 went on to tell me that based off the Incident</p> <p>15 Reports, that, and talking to Defendant Conroy,</p> <p>16 that she was going to give me 10 days'</p> <p>17 segregation.</p> <p>18 Q. For the four alleged rule violations?</p> <p>19 A. That's correct. And at that point I</p> <p>20 said that, well, I inquired, "What's the point</p> <p>21 of having a hearing when it seems to me, though,</p> <p>22 you have your mind made up without the hearing?"</p> <p>23 Q. So, she told you she was going to give</p> <p>24 you 10 days in segregation as discipline for the</p> <p>25 four alleged rule violations; is that right?</p>

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<p>40</p> <p>1 A. Yeah, yeah. She said that after her 2 and Lieutenant Conroy had talked. 3 Q. And she had reviewed the Incident 4 Reports prepared by the other officers? 5 A. I don't know if she -- she said, yeah, 6 based off the Incident Reports. 7 Q. This occurred at the segregation cell; 8 is that right? 9 A. That's correct. 10 Q. And then she stated you could have a 11 hearing, but you said basically what's the 12 point, right? 13 A. I said -- well, I inquired about the 14 rights, about what's my rights, what can I do. 15 And she, then that's when she went on to tell 16 me, based off the incidents reports and after 17 her talking to Defendant Conroy, that she felt 18 that 10 days was appropriate. I then handed 19 the, this Exhibit 1 back to Defendant Fish and 20 stated that I didn't understand my hearing 21 rights, as though it seems you had your mind 22 made up, if I had a hearing or if I didn't have 23 a hearing, I would get the 10 days regardless. 24 Q. And did you sign Exhibit 1? 25 A. No, I did not.</p>	<p>42</p> <p>1 a hearing, before I even had access to the 2 Incident Reports. 3 Q. So, because you believed her mind was 4 already made up, you decided not to have a 5 hearing at this point because what was the point 6 in having a hearing? 7 A. I wanted the hearing. 8 Q. When she came to see you when she 9 initially gave you Exhibit 1, did you tell 10 Sergeant Fish that you wanted the hearing? 11 A. I don't recall if I said I wanted the 12 hearing. She came and said that she will be 13 conducting the hearing. 14 Q. At some later point in time you did 15 tell her you wanted a hearing, right? 16 A. Yes. After the, after she had left and 17 I told her that I didn't understand my hearing 18 rights and she said -- I asked her about the 19 whole does she know how to conduct a proper 20 disciplinary hearing, and I seen her in the 21 hallway and I told her that I did want my 22 hearing. 23 Q. When did that occur? 24 A. Sometime soon, soon after, after she 25 had left. It seemed like she was frustrated</p>
<p>41</p> <p>1 Q. Did you refuse to sign Exhibit 1? 2 A. No, I did not. 3 Q. So, that's just Sergeant Fish writing 4 that you refused to sign Exhibit 1? 5 A. I believe that's who signed. I don't 6 know if she signed refused, but I'm guessing she 7 did. It's her signature at the bottom. 8 Q. Well, you didn't initial either that 9 you waived your right to a hearing or you wanted 10 to have a hearing; is that right? 11 A. At that point after that I handed the 12 violation, Exhibit 1, back to Defendant Fish 13 saying that I did not understand my hearing 14 rights and asked Defendant Fish if she knew the 15 policies and procedures about conducting proper 16 disciplinary hearings. And it seemed as though 17 she got agitated and stated, "No. Do you?" and 18 then left. 19 Q. So, at that time you didn't choose to 20 have a disciplinary hearing, right? 21 A. I wanted the hearing, but if -- seeings 22 like it was already prejudicial because the fact 23 that it didn't matter if I had the hearing or 24 not, I was going to get 10 days because her mind 25 was already made up before I even wanted to have</p>	<p>43</p> <p>1 with me being kind of argumentative towards her 2 about having, conducting a proper hearing. 3 Q. So, your first conversation she hands 4 you the Major Violation Report, which has been 5 marked as Exhibit 1, and tells you you can 6 either have a hearing or waive your right to a 7 hearing but she would be conducting it and after 8 her review of the Incident Reports and her 9 conversations with Lieutenant Conroy, she was 10 going to impose 10 days in segregation; is that 11 right? 12 A. That's correct. 13 Q. And in that first conversation you told 14 her you didn't understand your hearing rights 15 and did not sign Exhibit 1, is that right, or 16 initial whether or not to have a hearing? 17 A. Yeah. I handed it back to her and said 18 I don't understand it. 19 Q. And in that first conversation you 20 didn't tell her you wanted to have a hearing? 21 A. She came there saying that that's her 22 purpose, was conducting the hearing, because I 23 guess it's their policy within 24 hours to 24 conduct a hearing, so the hearing was going to 25 happen regardless.</p>

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<p style="text-align: right;">44</p> <p>1 Q. So, it's your understanding that she 2 was there to conduct the hearing, that was the 3 hearing?</p> <p>4 A. Yeah, that was the hearing according -- 5 well, that's what it appears to be now because 6 she made her decision after talking to 7 Defendant Conroy.</p> <p>8 Q. Did you actually discuss the details of 9 the incident that occurred on May 21st with 10 Sergeant Fish when she delivered the Major 11 Violation Report?</p> <p>12 A. I had asked her -- she had mentioned 13 Incident Reports. She said that she read the 14 Incident Reports, and I asked her if I could 15 have copies of those Incident Reports and she 16 then stated that she was in the process of 17 editing them. And then I was in an 18 argumentative state and asked her, "What do you 19 mean you're editing your reports?" "Oh, you 20 know, I put in there an 'of' or a 'the' or this 21 or that." And I just kind of got upset about 22 that because it's altering what really happened 23 because an of or a the can change the whole 24 outcome of anything. And I was not provided 25 with the Incident Reports until sometime later.</p>	<p style="text-align: right;">46</p> <p>1 then at that time I said, "Well, then I would 2 like to appeal."</p> <p>3 Q. So, after she told you that you 4 couldn't have a hearing because you refused to 5 have a hearing, you told her you wanted to 6 appeal her decision?</p> <p>7 A. Right.</p> <p>8 Q. And were you allowed to appeal that 9 decision?</p> <p>10 A. Yes.</p> <p>11 Q. And who handled this appeal?</p> <p>12 A. Defendant Josvai, I believe is how you 13 say her name.</p> <p>14 Q. Josvai, J-O-S-V-A-I.</p> <p>15 A. Josvai.</p> <p>16 Q. Did Sergeant Fish tell you who was 17 going to be handling your appeal?</p> <p>18 A. I think she did. She said that 19 Defendant Josvai would. I don't know if I have 20 a copy of that disciplinary in here, unless you 21 have it.</p> <p>22 Q. I think I do. And when did the appeal 23 occur?</p> <p>24 A. The following, in the morning.</p> <p>25 Q. May 23rd?</p>
<p style="text-align: right;">45</p> <p>1 Q. And then you told her essentially 2 what's the point of having a hearing, you've 3 already made your mind up?</p> <p>4 A. I said, yeah, I said, "You've already 5 said that I'm going to get 10 days, so, you 6 know, if I wanted the hearing or not, it doesn't 7 matter." Because, you know, I didn't refuse to 8 have a hearing.</p> <p>9 Q. Did you refuse to sign Exhibit 1?</p> <p>10 A. No, I did not. I, at that time I 11 handed it back to her and said I didn't 12 understand my disciplinary hearing rights. She 13 took it from me and then that's when I was 14 talking about the Incident Reports and then 15 about witnesses that were in the cell block, and 16 I asked her about the -- does she know how to 17 conduct a proper disciplinary hearing. And then 18 she got kind of offensive and offended by that 19 and said, "No. Do you?" And then walked away. 20 And then sometime soon thereafter I 21 seen her walking in the jail hallway and I asked 22 her if I could speak to her and I said, "May I 23 have a disciplinary hearing? I want the 24 disciplinary hearing." She said, "No. You 25 refused." I said, "No, I did not refuse." And</p>	<p style="text-align: right;">47</p> <p>1 A. That's correct. I don't have it in 2 here.</p> <p>3 (Exhibit Number 3 was marked for 4 identification by the reporter)</p> <p>5 Q. I'm going to show you what's been 6 marked for purposes of identification as 7 Exhibit 3.</p> <p>8 A. That's true and correct.</p> <p>9 Q. So, Exhibit 3 is a true and correct 10 copy of the Major Discipline Appeal?</p> <p>11 A. That's correct.</p> <p>12 Q. So, is this accurate that on Sunday, 13 May 23, 2010 at approximately 7:40 you met with 14 Chief Deputy Lisa Josvai?</p> <p>15 A. That's correct.</p> <p>16 Q. And what was the purpose of the appeal?</p> <p>17 A. The purpose of the appeal was to appeal 18 Defendant Fish's findings.</p> <p>19 Q. And what was the result of the appeal?</p> <p>20 A. The result of the appeal was that 21 pretty much she didn't want to, in my opinion, 22 didn't want to hear anything that I had to say 23 about, regarding not having access to the 24 Incident Reports, not being able to call 25 witnesses. Her only objective was to make sure</p>

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<p style="text-align: right;">48</p> <p>1 that the disciplinary hearing of Defendant Fish 2 standed and stated that if she could, she would 3 give me, in fact, 40 days, not 10 days and soon 4 thereafter left and said it stands. 5 Q. So, the purpose of the appeal was just 6 to determine if the sanctions imposed by 7 Sergeant Fish were appropriate? 8 A. That's correct. 9 Q. And Lisa Josvai determined that it was 10 appropriate? 11 A. Yeah. I guess due to her appeal, she 12 said it was. 13 Q. Did you say anything else to 14 Lisa Josvai during the appeal? 15 A. I explained to her how I wasn't, I 16 didn't have access to the Incident Reports and 17 witnesses and I felt that I didn't have, you 18 know, a proper hearing. And it seems like she 19 disregarded my concerns and said that, "Well, if 20 I could, I'd give you 40 days. I'd give you 10 21 days for each offense, but I'm not going to." 22 And then soon thereafter she left the 23 segregation area. 24 Q. And then on May 24, 2010 the discipline 25 was voided, right?</p>	<p style="text-align: right;">50</p> <p>1 I want to draw your attention to. To my reading 2 it looks like "Off sanctions per 1265, 5/24/10. 3 A. Yeah, I see that. 4 Q. Does that refresh your recollection at 5 all as to whether or not you were released from 6 segregation on May 24, 2010? 7 A. No. 8 Q. Do you know who 1265 is? 9 A. No. I'm sure it's an officer or 10 something, officer's number. 11 Q. How do you feel you were injured from 12 the denial of your due process rights? 13 A. Because I was denied a fair hearing. 14 Q. And what do you feel you had to endure 15 because of the denial of a fair hearing? 16 A. I wasn't able to have access to the 17 Incident Reports, call witnesses to -- you know, 18 on my behalf. I wasn't able to tell my side of 19 the events. And the findings of the hearing 20 officer are inadequate. They don't say 21 anything. If you look at the bottom of the 22 sheet, it just says Sergeant Fish, the offense 23 was committed as charged, 10 days receiving. I 24 said, "It doesn't say why." And I, when I was 25 talking to them, Defendant Fish and Josvai, I</p>
<p style="text-align: right;">49</p> <p>1 A. I don't know. 2 Q. You were returned to a regular cell on 3 May 24, 2010? 4 A. I don't know. 5 Q. You don't know, you don't recall? 6 A. Right, I don't recall. 7 Q. You weren't in segregation for the full 8 10 days that Sergeant Fish had initially 9 decided, though, right? 10 A. I don't think so, no, I wasn't. 11 Q. Is it possible that you were returned 12 to your regular cell on May 24, 2010? 13 A. I wasn't returned to the regular cell, 14 but I was in a different -- 15 Q. You were released from segregation on 16 May 24, 2010? 17 A. I don't, I don't know for sure if it 18 was. 19 Q. It's possible you were released from 20 segregation on May 24, 2010? 21 A. Maybe. 22 Q. I'm going to show you what's been 23 marked for purposes of identification as 24 Exhibit 2. This is very similar to Exhibit 1, 25 but there's a notation on the bottom right that</p>	<p style="text-align: right;">51</p> <p>1 stated that I wasn't resisting, I wasn't 2 disorderly conduct, I didn't cause a jail 3 disturbance, but it didn't seem to matter. 4 Q. If you had had a fair hearing, what 5 would have gone on in that hearing? 6 A. I would have been able to present, 7 refute the Incident Reports. I would have had 8 people that were in the cell block testify to 9 what they either seen or heard. 10 Q. Who was in the cell block? 11 A. I know Nicholas Lazinski was within the 12 cell block, Nate Keller was in the cell block 13 and, I believe, Leroy Woodworth. There's, I 14 believe, somebody else. I don't remember who it 15 was. 16 Q. Do you know whether or not they 17 witnessed the event on May 21, 2010? 18 A. They witnessed part of it or heard a 19 part of it. 20 Q. Which part? 21 A. The jail staff entering into the cell, 22 them telling me -- dragging me through the cell 23 block, that I had injured my foot, that I said 24 that I was not resisting, that -- 25 Q. Did they witness the various officers</p>

15 (Pages 48 to 51)

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1 tell you to remove the paper from the light?
 2 **A. I believe they either -- if they**
 3 **weren't sleeping. It was quite early in the**
 4 **morning, so I -- maybe they did, maybe they**
 5 **didn't hear it. If they were awake, they**
 6 **probably heard it.**

7 Q. What about the night before?

8 **A. I -- they may have. I don't know for**
 9 **sure, but I would have liked to say they heard**
 10 **it.**

11 Q. You refused to remove the paper from
 12 the light; is that right?

13 **A. I didn't put it there, so I'm not going**
 14 **to take it off, that's correct. My right as a**
 15 **pretrial detainee is to only clean. I don't**
 16 **have to follow any other orders but to keep my**
 17 **quarters clean. I'm sure if you want to dig**
 18 **into it enough, there's case law on it.**

19 MR. POSNANSKI: I have no further
 20 questions.

21 (Deposition was concluded at
 22 10:45 a.m.)
 23
 24
 25

53

1 STATE OF WISCONSIN)

) ss.

2 COUNTY OF MONROE)
 3

I, CHRISTAL A. HANSEN, a
 4 Registered Professional Reporter and Notary
 Public in and for the State of Wisconsin, do
 5 hereby certify that the foregoing deposition was
 taken before me at the Monroe County Jail, 210
 6 West Oak Street, City of Sparta, County of
 Monroe and State of Wisconsin, on the 14th day
 7 of July 2011, that it was taken at the request
 of the Defendants, upon verbal interrogatories;
 8 that it was taken in shorthand by me, a
 competent court reporter and disinterested
 9 person, approved by all parties in interest and
 thereafter converted to typewriting using
 10 computer-aided transcription; that said
 deposition is a true record of the deponent's
 11 testimony; that the appearances were as shown on
 page 3 of the deposition; that said
 12 MICHAEL B. KINGSLEY, before examination was
 sworn by me to tell the truth, the whole truth,
 13 and nothing but the truth relative to said
 cause.

14 Dated July 30, 2011.

15 *Christal A. Hansen*
 16

17 Registered Professional Reporter
 18 Notary Public, State of Wisconsin
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